

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb



Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

Title 8: Division 1, Chapter 4, Subchapter 7, Article 7, Section 3336
and Article 25, Sections 3650 and 3653 of the General Industry Safety Orders

Powered Industrial Trucks – Seat Belts and Signaler**SUMMARY**

This rulemaking action was initiated in response to Petition No. 429. The Board's Petition Decision in regards to Petition 429 directed staff to convene an advisory committee to consider proposed amendments addressing: 1) the use of an operator restraint system when a forklift equipped with a rollover protective structure (ROPS) is moved, and 2) the use of a signaler when the forklift operator is carrying a load that blocks the operator's view and the operator is unable to tell whether a truck or trailer has departed or pulled out from the loading dock.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 3336. Loading Dock Operations.**

Section 3336 requires that trucks or trailers be secured from movement during dock loading and unloading operations. New subsection (a) would require that trucks, trailers, and railcars boarded by powered industrial trucks during loading dock operations be secured against unintended movement as specified in subsections 3650(t)(22) and (23). Section 3650(t) pertains to operating rules for industrial trucks. Subsection 3560(t)(22) provides that vehicles shall not be driven in and out of highway trucks and trailers at loading docks until such trucks or trailers are securely blocked or restrained and the brakes set. To prevent railroad cars from moving during loading or unloading operations, subsection 3650(t)(23) provides, in part, that the car brakes shall be set and wheel chocks or other recognized positive stops used. The purpose of the proposed revision is, in part, to prevent what is commonly referred to as "trailer creep" which occurs when the repeated movement of a powered industrial truck inside of a truck, trailer, or railroad car causes the car to move away from a loading dock. The amendment is necessary to instruct employers on the specific steps that must be taken to prevent trucks, trailers, and railroad cars from moving away from a loading dock and thereby prevent an industrial truck from falling and/or tipping over and crushing the operator when attempting to enter or exit a truck, trailer or railroad car that has moved away from the loading dock.

New subsection (b) would require that the employer establish and enforce a system to prevent trucks, trailers or railcars from pulling away from the loading dock before the loading or unloading operation is completed. The purpose of this performance standard is to require the employer to establish and enforce a system to prevent the early departure of a truck, trailer or railcar while it is still being loaded. The amendment is necessary to prevent an industrial truck from falling and/or tipping over and crushing the operator when attempting to enter or exit a truck, trailer or railroad car that is pulling away from the loading dock.

Section 3650. Industrial Trucks. General.

Subsections (a), (b)(1), and (b)(2) provide that, based on the type of industrial truck and the date of its manufacture, industrial trucks be labeled as meeting the design and construction requirements of the applicable national consensus standards (NCS) for industrial trucks that are referenced in the three subsections. Subsection (a) would be renumbered (b)(1) and would be amended to limit its application to industrial trucks manufactured after June 26, 1998, through the effective date of the proposed standard. Revised subsection (a) would apply to industrial trucks manufactured after the effective date of the proposed standard and would reference the most recent versions of the NCS regarding industrial trucks. This amendment is necessary to ensure and allow that industrial trucks manufactured after the effective date of this amendment be labeled as meeting the design and construction requirements of the applicable NCS in effect on the date that the revised standard becomes effective. In addition, the amendment is necessary to ensure and allow that industrial trucks manufactured after the effective date of this amendment be designed, constructed and maintained in accordance with the applicable NCS in effect on the date that the revised standard becomes effective, as required by subsection (c).

Subsection (b)(1) provides that industrial trucks that do not comply with subsection (a) must comply with either the provisions of the subsection or subsection (b)(2). Subsection (b)(1) would be renumbered (b)(2) and, to reflect the renumbering of subsections (a) and (b), the subsection would be revised to state that industrial trucks that do not comply with subsection (b)(1) must comply with either the provisions of the subsection or subsection (b)(3). This amendment is necessary to retain consecutive numbering of the subsections and to retain references to provisions in renumbered subsections.

Subsection (b)(2) provides that industrial trucks that do not comply with subsection (a) must comply with the provisions of the subsection. Subsection (b)(2) would be renumbered subsection (b)(3) and, to reflect the renumbering of subsections (a) and (b), the subsection would be revised to state that industrial trucks that do not comply with subsection (b)(1) must comply with the provisions of the subsection. This amendment is necessary to retain consecutive numbering of the subsections and to retain references to provisions in renumbered subsections.

Subsection (b)(3) would be renumbered (b)(4). The amendment is necessary to maintain consecutive numbering of the subsections.

New subsection (t)(33) would require that, when provided by the industrial truck manufacturer, an operator restraint system such as a seat belt shall be used. Subsection (t) pertains to operating

rules for industrial trucks but does not address the use of operator restraints. According to the National Institute for Occupational Safety and Health (NIOSH), each year in the United States, nearly 100 workers are killed and another 20,000 are seriously injured in forklift-related incidents. Forklift overturns are the leading cause of fatalities involving forklifts; they represent about 25% of all forklift-related deaths. The purpose of the proposed revision is to make the operating rules for industrial trucks in subsection (t) consistent with the current ANSI/ITSDF B56 standards for industrial trucks which require that an active operator protection device or system, when provided, shall be used to reduce the risk of entrapment of the operator's head in the event of a tip-over. The revision is necessary to prevent an operator from being crushed by the industrial truck or overhead guard in the event of a tip-over.

Section 3653. Seat Belts.

Subsection (a) requires that seat belts be provided on equipment where ROPS is installed and employees shall be instructed in their use. Amended subsection (a) would additionally require that the seat belt assemblies be used. The proposed revision is necessary to be consistent with Section 1596, proposed new Section 3650(t)(33), and ANSI/ITSDF B56.6-2005 Safety Standard for Rough Terrain Forklift Trucks. Section 1596 of the Construction Safety Orders provides that ROPS and seat belts shall be installed, and seat belts used, on equipment such as scrapers, tractors, front-end loaders, bulldozers, motor graders, water wagon prime movers, rollers, and compactors. The ANSI/ITSDF B56.6 standard requires that ROPS and seat belts shall be installed, and seat belts used, on all rough terrain forklift trucks fitted with a side-mounted operator's compartment. The purpose of the proposed revision is to prevent an operator from being crushed by the industrial truck or ROPS in the event of a tip-over or rollover.

DOCUMENTS RELIED UPON

Petition Decision of the Occupational Safety and Health Standards Board (Petition File No. 429).

Business Meeting Summary of the July 19, 2001, meeting of the Occupational Safety and Health Standards Board.

Occupational Safety and Health Standards Board Staff's Review of the Petition by David Caldwell (Petition File No. 429).

Division of Occupational Safety and Health - Evaluation of Petition No. 429 submitted by David Caldwell.

Petition Request from Mr. David Caldwell to the Occupational Safety and Health Standards Board.

NIOSH Alert: Preventing Injuries and Deaths of Workers Who Operate or Work Near Forklifts, National Institute for Occupational Safety and Health, NIOSH Publication No. 2001-109, <http://www.cdc.gov/niosh/2001-109.html>.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

DOCUMENTS INCORPORATED BY REFERENCE

ANSI/ITSDF B56.1 – 2005, Safety Standard for Low Lift and High Lift Trucks, American National Standards Institute/Industrial Truck Standards Development Foundation, <http://www.itsdf.org/pB56.asp>.

ANSI/ITSDF B56.5 – 2005, Safety Standard for Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles, American National Standards Institute/Industrial Truck Standards Development Foundation, <http://www.itsdf.org/pB56.asp>.

ANSI/ITSDF B56.6 – 2005, Safety Standard for Rough Terrain Forklift Trucks, American National Standards Institute/Industrial Truck Standards Development Foundation, <http://www.itsdf.org/pB56.asp>.

ANSI/ITSDF B56.8 – 2006, Safety Standard for Personnel and Burden Carriers, American National Standards Institute/Industrial Truck Standards Development Foundation, <http://www.itsdf.org/pB56.asp>.

ANSI/ITSDF B56.9 – 2007, Safety Standard for Operator Controlled Industrial Tow Tractors, American National Standards Institute/Industrial Truck Standards Development Foundation, <http://www.itsdf.org/pB56.asp>.

ANSI/ITSDF B56.10 – 2006, Safety Standard for Manually Propelled High Lift Industrial Trucks, American National Standards Institute/Industrial Truck Standards Development Foundation, <http://www.itsdf.org/pB56.asp>.

NFPA 505 – 2006, Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operations, National Fire Protection Association.

UL 583 – 1996, Standard for Safety, Electric-Battery-Powered Industrial Trucks, Underwriters Laboratories.

UL 558 – 1996, Standard for Safety, Industrial Trucks, Internal Combustion Engine-Powered, Underwriters Laboratories.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC
IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.